

Alexandra K. Piazza (SBA 341678)
Sophia Rios (SBA 305801)
BERGER MONTAGUE PC
401 B Street, Suite 2000
San Diego, CA 92101
Tel: (619) 489-0300
apiazza@bm.net
srios@bm.net

*Attorneys for Plaintiff and the
Proposed Collective and Class*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

DWAYNE AUSTIN, individually and on behalf of all persons similarly situated, : Civil Action No.: 2:21-cv-02100-KJM-DB
Plaintiff, :
v. :
FINISHLINE EXPRESS LLC and DHL EXPRESS (USA) INC. d.b.a. DHL EXPRESS, :
Defendants. :
: **CLASS AND COLLECTIVE ACTION**
: **JURY TRIAL DEMANDED**

**STIPULATION AND ORDER TO CONTINUE STAY OF CASE
PENDING ALTERNATIVE DISPUTE RESOLUTION AND TOLLING**

STIPULATION AND ORDER TO CONTINUE TO STAY CASE
PENDING ALTERNATIVE DISPUTE RESOLUTION AND TOLLING

1 [Additional Counsel]
2 Ace T. Tate
3 Amanda L. Iler
4 MARTENSON, HASBROUCK & SIMON LP
5 455 Capitol Mall, Suite 400
6 Sacramento, CA
7 Phone: (279) 895-6519
8 atate@martensonlaw.com
9 ailer@martensonlaw.com

10 *Attorney for Defendant Finishline Express, LLC*

11 Linda Cooper Schoonmaker
12 Brian A. Wadsworth
13 SEYFARTH SHAW LLP
14 700 Milam Street, Suite 1400
15 Houston, TX 77002
16 713-860-0083
17 Fax: 713-821-0656
18 lschoonmaker@seyfarth.com
19 bawadsworth@seyfarth.com

20 *Attorneys for Defendant DHL Express (USA), Inc.*

1 **STIPULATION AND PROPOSED ORDER TO CONTINUE STAY OF CASE**
2 **PENDING ALTERNATIVE DISPUTE RESOLUTION AND TOLLING**

3 Plaintiff Dwayne Austin (“Plaintiff”) and Defendants Finishline Express (“Finishline”)
4 and DHL Express (USA) Inc. d.b.a. DHL Express (“DHL”) (collectively, the “Parties”), through
5 their undersigned counsel, hereby stipulate as follows:

6 1. The Parties met and conferred regarding a possible stay and to engage in ADR to
7 attempt to resolve the case, which led to the agreement to schedule a private mediation with
8 experienced mediator Dennis Clifford, Esq.

9 2. On January 14, 2022, the Parties informed the Court of these efforts by submitting
10 a stipulation to stay the case until May 31, 2022, pending settlement efforts, (ECF No. 6), which
11 the Court approved (ECF No. 8). The Court further tolled the statute of limitations on potential
12 wage claims for the Parties and Class Members. (ECF No. 8.)

13 3. Currently, Defendants’ respective responses to Plaintiff’s Complaint are due July
14 25, 2022. The Initial Scheduling Conference was reset to August 25, 2022. (ECF No. 8.)

15 4. On May 26, 2022, the Parties participated in a remote mediation with Dennis
16 Clifford, Esq. The mediation was unsuccessful, however, the Parties agreed to consider a second
17 mediation.

18 5. On June 29, 2022, the Parties met and conferred regarding continued alternative
19 dispute resolution and agreed to continue potential settlement discussions, including the
20 exchange of additional documents and information.

21 6. To allow the Parties to focus on ADR-related process set forth above, and to
22 promote judicial economy, the Parties respectfully request a stay of these proceedings from the
23 date of the filing of this Stipulation until September 2, 2022 (the “Stay Period”). The Parties
24 agree that all deadlines and statute of limitations on potential wage claims shall be tolled for the
25 Parties and Class Members. Such tolling shall begin upon approval of this stipulation by the
26 Court and continue until thirty (30) days after the Stay Period. The Parties further respectfully
27

1 request that the deadline for Defendants to file their responses to Plaintiff's Complaint be
2 extended to 30 days after the end of the tolling period.

3 7. On or before September 2, 2022, the Parties will submit a joint status report
4 apprising the Court as to the status of the settlement discussions.

5 WHEREFORE, the Parties respectfully request that the Court enter this stipulation as
6 an Order.

7 Pursuant to Local Rule 131(e) filing counsel represents they have obtained the approval
8 of the undersigned prior to submission.

9 Dated: July 18, 2022

10 Respectfully submitted,

11 /s/ Alexandra K. Piazza
12 Alexandra K. Piazza
13 Sophia Rios
14 BERGER MONTAGUE PC
15 401 B Street, Suite 2000
16 San Diego, CA 92101
17 Tel: (619) 489-0300
18 apiazza@bm.net
srios@bm.net

19
20 *Attorneys for Plaintiff and*
the Proposed Classes

21 /s/ Amanda L. Iler (as authorized on 7/18/2022)
22 Ace T. Tate
23 Amanda L. Iler
24 MARTENSON, HASBROUCK
25 & SIMON LP
26 455 Capitol Mall, Suite 400
27 Sacramento, CA
Phone: (279) 895-6519
atare@martensonlaw.com
ailer@martensonlaw.com

28 *Attorneys for Defendant Finishline Express,*
LLC

29
30 /s/ Linda Cooper Schoonmaker (as authorized on
31 7/18/2022)
32 Linda Cooper Schoonmaker
33 SEYFARTH SHAW LLP
34 700 Milam Street, Suite 1400
35 Houston, TX 77002
36 Telephone: 713-860-0083
37 Facsimile: 713-821-0656
38 lschoonmaker@seyfarth.com

39
40 Philip J. Ebsworth
41 California Bar No. 311026
42 SEYFARTH SHAW LLP

400 Capitol Mall, Suite 2350
Sacramento, California 95814
Telephone: (916) 498-7012
Facsimile: (916) 558-4839
pebsworth@seyfarth.com

Attorneys for Defendant DHL Express (USA), Inc.

ORDER

The court has reviewed the parties' stipulation, ECF No. 11. Good cause appearing, the court orders:

1. The proceeding shall be stayed until September 2, 2022.
2. All deadlines and statute of limitations on potential wage claims shall be tolled for the Parties and Class Members until thirty (30) days after the end of the Stay Period.
3. The deadline for Defendants to file their responses to Plaintiff's Complaint is extended to 30 days after the end of the tolling period.
4. The Initial Scheduling Conference set for August 24, 2022 is VACATED and RESET for November 3, 2022 at 2:30 p.m., with the filing of a joint status report due fourteen days prior.

IT IS SO ORDERED.

DATED: August 2, 2022.

CHIEF UNITED STATES DISTRICT JUDGE